



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

MICHAEL C MAIER
7401 SOUTH MAIN
HOUSTON TX 77030

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

Carrier's Austin Representative

Box Number 54

MFDR Tracking Number

M4-11-1287-01

MFDR Date Received

December 20, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Procedure code 28200 has a higher allowable which makes this the primary procedure therefore this code should not be paid base [sic] on that procedure rule as it is not applicable for that code."

Amount in Dispute: \$537.64

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "1. The requestor alleges it was not paid for code 282800. 2. The check was issued 9/1/10."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|------------------|-------------------|-------------------|------------|
| July 8, 2010 | 28200 | \$537.64 | \$256.66 |

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.

3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- Note: Code 20680 paid on bill #9561681 was the primary. Codes 28200 and 10121 are secondary codes and both should have been allowed at 50% MAR
- CAC-W4 – No additional reimbursement allowed after review of appeal/reconsideration
- CAC-59 – Processed based on multiple or concurrent procedure rules
- 329 – Allowance for this service represents 50% because of multiple or bilateral rules
- 724 – No additional payment after a reconsideration of services
- 729 – This bill was reviewed in accordance with your first health contract
- CAC-131 – Claim specific negotiated discount

Issues

1. Was the workers' compensation insurance carrier entitled to pay the health care provider at a contracted rate?
2. Did the requestor bill in conflict with the NCCI edits?
3. Is the disputed CPT code 28200 subject to the multiple surgery reduction?
4. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier reduced disputed services with reason code "729 – This bill was reviewed in accordance with your first health contract" and "CAC-131 – Claim specific negotiated discount." Review of the submitted information found insufficient documentation to support that the disputed services were subject to a contractual fee arrangement between the parties to this dispute. Nevertheless, on January 26, 2011 the Division requested the respondent to provide a copy of the referenced contract as well as a documentation to support notification to the healthcare provider, as required by 28 Texas Administrative Code §133.4, that the insurance carrier had been given access to the contracted fee arrangement. Review of the submitted information finds that the documentation does not support notification to the healthcare provider in the time and manner required.

The Division concludes that pursuant to §133.4(g), the insurance carrier is not entitled to pay the health care provider at a contracted fee. Consequently, per §133.4(h), the disputed services will be reviewed for payment pursuant to the applicable Division rules and fee guidelines.

2. Per 28 Texas Administrative Code §134.203 "(b) For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

The requestor seeks reimbursement for CPT code 28200 rendered on July 8, 2010. The division completed NCCI edits to help identify edit conflicts that would affect reimbursement. The requestor billed the following CPT codes 28200 and 10121 on Jul 8, 2010. The following was identified:

The division finds that no NCCI edit conflicts were identified for date of service July 8, 2010. As a result, the disputed charge, CPT code 28200 will be reviewed pursuant to 28 Texas Administrative Code §134.203.

3. Per CMS "If a procedure is reported on the same day as another procedure that has a multiple surgery indicator of 2 or 3, the procedures are ranked by fee schedule amount from highest to lowest. Reimbursement for the procedure with the highest fee schedule amount is based on 100% of the fee schedule. Reimbursement for each additional procedure is based on 50% of the fee schedule amount. If the submitted charge is less than the fee schedule-based charge, reimbursement will be based on the submitted charge."

The multiple procedure indicator - 2 is defined as "Standard payment adjustment rules for multiple procedures apply. If procedure is reported on the same day as another procedure with an indicator of 1, 2, or 3, rank the procedures by fee schedule amount and apply the appropriate reduction to this code; (100 percent, 50 percent, 50 percent, 50 percent, and by report)."

CPT code 10121 is defined as "Incision and removal of foreign body, subcutaneous tissues; complicated" and contains a surgery indicator of 2, therefore the standard payment adjustment rules for multiple procedure apply.

CPT code 28200 is defined as "Repair, tendon, flexor, foot; primary or secondary, without free graft, each tendon" and contains a surgery indicator of 2; therefore the standard payment adjustment rules for multiple procedures apply. CPT code 28200 is ranked higher on the fee schedule and is therefore reimbursed at 100% of the Medicare Physician Fee Schedule (MPFS). Reimbursement for CPT code 28200 will be calculated pursuant to 28 Texas Administrative Code §134.203.

4. Per 28 Texas Administrative Code §134.203 "(c) To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32. (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year."

The MAR reimbursement for CPT code 28200 is \$561.92. The requestor seeks reimbursement in the amount of \$537.64, minus the insurance carrier payment of \$280.98, equals a recommended reimbursement amount of \$256.66.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$256.66.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$256.66 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

October 17, 2013
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.